

IN THE UNITED STATES DISTRICT COURT  
FOR DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

Daniel Thad Potts, Jr.,

Plaintiff,

v.

Rett Padgett, Justin Dawkins,

Defendants.

C/A No. 4:23-cv-4875-SAL

**ORDER**

Plaintiff Daniel Thad Potts, Jr., a pro se litigant, filed this civil rights action asserting a claim under the Americans with Disabilities Act (“ADA”) against Defendants Rett Padgett and Justin Dawkins. *See* ECF No. 29 at 1–2 (explaining the procedural history of this case). Defendants filed a motion to dismiss. [ECF No. 20.] This matter is before the court on the Report and Recommendation (the “Report”) issued by United States Magistrate Judge Kaymani D. West, made in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), recommending Defendants’ motion to dismiss be granted and that this action be dismissed but that Plaintiff be given a reasonable opportunity to amend his complaint. [ECF No. 29.] Attached to the Report was a notice advising Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. [ECF No. 29-1.] Plaintiff has not filed objections, and the time for doing so has expired.

The magistrate judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The court is charged with making a *de novo* determination of only those portions of the Report that have been specifically objected to,

and the court may accept, reject, or modify the Report, in whole or in part. 28 U.S.C. § 636(b)(1). In the absence of objections, the court is not required to provide an explanation for adopting the Report and must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (citing Fed. R. Civ. P. 72 advisory committee’s note).

After reviewing the Report, the applicable law, and the record of this case in accordance with the above standard, the court finds no clear error, adopts the Report, ECF No. 29, and incorporates it by reference herein. As a result, Defendants’ motion to dismiss, ECF No. 20, is **GRANTED**, and the ADA-based claims against Defendants are **DISMISSED with prejudice**.

Out of an abundance of caution, the court construes Plaintiff’s request to “change liability to Marley Engineered Products,” ECF No. 25 at 1, as a request to file an amended complaint. The court grants that request. The Clerk is directed to provide Plaintiff with the pro se complaint for employment discrimination form. Plaintiff may file an amended complaint within twenty-one (21) days of the date of this Order. In the event Plaintiff does not file an amended complaint within twenty-one days, this matter will be dismissed without prejudice. In the event Plaintiff files an amended complaint, the matter shall be recommitted to the magistrate judge for further pretrial handling.

**IT IS SO ORDERED.**

July 9, 2024  
Columbia, South Carolina

  
Sherri A. Lydon  
United States District Judge